

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X

CRAIG CUNNINGHAM on behalf of himself
and all others similarly situated,

Plaintiff,

ORDER

- against -

CV 17-2080 (ADS) (AKT)

SHORE FUNDING SOLUTIONS INC.,

Defendant.

-----X

A. KATHLEEN TOMLINSON, Magistrate Judge:

The Court has reviewed and considered both (1) Plaintiff's Second Motion to Compel and First Motion for Sanctions, filed as a letter motion [DE 27] and (2) Defendant's motion to stay the relief sought in Plaintiff's Second Motion to Compel and cross-motion to stay all proceedings [DE 30]. The Court points out initially that Defendant's motion to stay the relief sought in DE 27 had to be filed by January 18, 2018 and the Court cautioned that it was not extending this deadline. The portion of Plaintiff's motion that seeks to compel the amended responses from Defendant is GRANTED. The portion of the motion which seeks sanctions is DENIED at this time. As to the portion of DE 30 which addresses and opposes the second motion to compel, that portion of the motion is DENIED. Even if the opposition had been timely, the Court would still DENY the motion because Defendant continues to willfully disregard the Orders of this Court.

From the very first conference with the Court, defendant's counsel has chosen to do things his own way. *See* August 2, 2017 Civil Conference Minute Order [DE 12], paragraph 1. Further, at the November 27, 2017 Motion Hearing, I directed that all objections to the Plaintiff's discovery demands were waived as a result of the lengthy delay in serving them, in contravention

of the Court's prior Orders. *See* DE 24. Defendant's counsel had apparently provided responses to the demands one day before that November 27 conference. Defendant's counsel was required to amend his responses accordingly, but still has not served those amended responses on Plaintiff's counsel, and now seeks a stay. As noted, the motion is DENIED. Defendant's counsel shall serve the outstanding responses so that they are in the hands of Plaintiff's counsel no later than February 5, 2018. If the amended responses are not served by that date, the Court will impose a sanction of \$250 per day thereafter for each and every day that the responses are not forthcoming. That \$250 per day sanction shall be apportioned 50/50 between Defendant Shore Funding Solutions and counsel for the Defendant.

As to the cross-motion portion of DE 30 which seeks a full stay of all proceedings before this Court, that application is granted to the limited extent that the Court is holding all depositions in abeyance until Judge Spatt renders his ruling on the Defendant's motion to stay all proceedings. Defendant and Defendant's counsel are on notice that any further failure to comply with this Court's Orders will result in a more expansive sanction.

SO ORDERED.

Dated: Central Islip, New York
January 26, 2018

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
United States Magistrate Judge